

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

| | | |
|---------------------------|---|------------------------|
| MARVIN HARRIS, D99649, |) | |
| |) | |
| Petitioner, |) | No. C 14-0972 CRB (PR) |
| |) | |
| vs. |) | ORDER OF DISMISSAL |
| |) | |
| R. T. C. GROUNDS, Warden, |) | (Docket #6) |
| |) | |
| Respondent. |) | |


Petitioner, a state prisoner currently incarcerated at Salinas Valley State Prison, has filed a second or successive petition for a writ of habeas corpus under 28 U.S.C. § 2254. His first petition challenging the same conviction and sentence was considered on the merits and dismissed with prejudice in 1992. See Harris v. Lungren, No. C 92-2180 JPV (N.D. Cal. Oct. 16, 1992), and Harris v. USA, No. C 92-281 JPV (N.D. Cal. Oct. 22, 1992) (consolidated cases).

A second or successive petition may not be filed in this court unless petitioner first obtains from the United States Court of Appeals for the Ninth Circuit an order authorizing this court to consider the petition. See 28 U.S.C. § 2244(b)(3)(A). Petitioner has not obtained such an order from the Ninth Circuit. The petition accordingly is DISMISSED without prejudice to refiling if petitioner obtains the necessary order. But based solely on his affidavit of poverty, petitioner's motion to proceed in forma pauperis (docket #6) is granted.

1 The clerk shall enter judgment in accordance with this order and close the
2 file.

3 SO ORDERED.

4 DATED: March 18, 2014



CHARLES R. BREYER
United States District Judge